

Serial No. 10/534,976

Docket No.: 272239US0PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:

GROUP: 1615

Soichiro WATANABE

SERIAL NO: 10/534,976

EXAMINER: MERCIER

FILED: May 16, 2005

FOR: COSMETIC PACK PREPARATION

DECLARATION UNDER 37 C.F.R. § 1.132

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

Sir:

Now comes Soichiro WATANABE
who deposes and states that:

1. I am a graduate of Waseda University and received my M.S. degree in the year 1996.
2. I have been employed by KOSE Corporation for 12 years as a Researcher in the field of Cosmetics.

3. I am an inventor of the present invention. I have reviewed the Office Action dated October 17, 2008, for the above-identified application. I have also carefully reviewed the references cited in the Office Action and in particular Minnix et al (US 6,309,655).

The present invention provides a peel-off cosmetic pack preparation in which polyvinyl alcohol is used as a film-forming agent to form a continued film on the skin, and this film is then peeled off. In order to form such a continued film, it is required that an aqueous phase having polyvinyl alcohol dissolved therein is a continuous phase. For that reason, in peel-off cosmetic pack preparations, a large amount of water is in general blended.

In contrast, the cosmetic composition disclosed in Minnix is basically a water-free anhydrous cosmetic composition (see Claim 1 of Minnix), in which water can be present only via its presence in the formulation components and absorption from the atmosphere, and the amount of water, if any, is up to 5 % (see column 6, lines 32-48 of Minnix). As a result, the

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aqueous phase cannot be a continuous phase in the cosmetic preparation at the water content of this degree. Therefore, even when the cosmetic preparation of Minnix is applied on the skin, it cannot form a continued film and can never become a peel-off pack preparation.

Further, in contrast to Minnix, the cosmetic pack of Claim 1 contains 70 to 90 wt% of water.

Further, originally, the cosmetic composition of Minnix contains a self-warming component which generates heat when brought into contact with water, and in order to avoid the heat generation before application of the cosmetic preparation, it is basically required that the cosmetic composition is anhydrous (see column 3, lines 16-23). Also, in Minnix, the polyvinyl alcohol is merely used as a binder for binding self-indicating disintegrating granules (see column 3, line 66 to column 4, line 1 and column 4, lines 8-17).

Thus, Minnix does not disclose or suggest a peel-off cosmetic pack of the present invention, which uses polyvinyl alcohol as a film-forming agent and contains a large amount of water. Shiraishi, Mochizuki, Kaneda, Kern, Massaro fail to cure the defects of Minnix because none of Shiraishi, Mochizuki, Kaneda, Kern, Massaro discloses a peel-off cosmetic pack as claimed.

Moreover, the solution of problems in the present invention are not disclosed or suggested by Minnix, Shiraishi, Mochizuki, Kaneda, Kern, Massaro, alone or in combination. Specifically, under the conventional technology, it has been difficult to stably disperse a pigment in a polyvinyl alcohol aqueous solution due to influences of surface activity of the pigment. In this context, the present invention has realized a stable dispersion system by employing, as a pigment, a titanium-titanium dioxide sinter which has a small mutual action with polyvinyl alcohol and further using a polyglycerol fatty acid ester as a dispersant.

4. The undersigned petitioner declares further that all statements made herein of his own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section

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1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any patent issuing thereon.

5. Further deponent saith not.

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Soichiro Watanabe
Signature

Jan 23, 2009
Date